

Questions and Answers from Federal Practice Institute Presentation
December 3, 2004

1. Is there a timetable for CM/ECF?

Yes. The “live” date for CM/ECF is July 1, 2005. The Eastern and the Western Districts of Arkansas will be working jointly to implement CM/ECF.

2. Will there be a trial period before the “live” date of July 1, 2005?

Approximately two months before July 1, 2005, intensive training will be offered to attorneys and legal staff throughout the state. Currently, training is offered through an electronic case filing tutorial posted on the Court’s web site, www.are.uscourts.gov.

3. What do attorneys need to do now in anticipation of July 1, 2005?

Attorneys and legal staff can prepare for electronic case filing by viewing the CM/ECF tutorials, registering for the Court’s electronic notification service, and familiarizing themselves with all of the important information posted on the Court’s web site.

4. Is this same system used in the Eighth Circuit Court of Appeals?

The Court of Appeals has recently started implementation of their own CM/ECF system.

5. How do you initiate an action without having the case number?

All case initiating documents (e.g., complaint, petition for removal from state court, indictment, information, etc.) in civil and criminal cases must be filed in the traditional (paper) manner with the Clerk’s Office. Documents subsequent to the initiating document may be filed electronically.

6. How is Rule 58, “Entry of Judgment,” and Rule 79, “Civil Judgment and Orders,” of the Federal Rules of Civil Procedure affected by the CM/ECF system?

Electronic case filing does not affect these rules. Under Rule 58, the time of entry of the judgment will be reflected on the Notice of Electronic Filing (NEF). An NEF will be transmitted to all registered parties by electronic mail upon entry of the judgment in the CM/ECF system. Counsel should be aware that the date on the NEF serves as the filing date.

Under Rule 79, the Clerk’s Office will continue to keep a docket sheet for each case in the CM/ECF system. The docket sheet will contain a file number, all papers filed with the clerk, all process issued and returns made, and the substance of all orders, verdicts, and judgments entered in each case. The docket sheet will be accessible to counsel, parties and the public through the PACER system. Furthermore, an electronic image of the final judgment in each case can be viewed via PACER.

7. Are time computations contained in the Federal Rules of Procedure affected by electronic filing?

Electronic case filing has not changed the mechanics of computing time under Rule 6(a) and 6(e) of the Federal Rules of Civil Procedure and Rule 45(a) of the Federal Rules of Criminal Procedure. Likewise, the three-day provision contained in FRCvP 6(e) and FRCrP 45(c) has not changed.

8. If you are certified on the Bankruptcy CM/ECF system, will you automatically be certified on the District Court's CM/ECF system?

The District Court does not anticipate requiring users to be certified in order to file electronically. This is an issue that will be reviewed by the Court and discussed with representatives from the Bar. However, the District Court's system is separate from the Bankruptcy Court system and will require a separate login and password.

9. What happens with discovery material under CM/ECF?

Electronic case filing does not affect the rules pertaining to discovery and the filing of discovery material that are currently in place. The filing of disclosures and discovery requests and responses will continue to be governed by the Federal Rules of Civil Procedure and Local Rules of the Court.

10. Are there limitations on the hours that you can file (i.e., 8:30AM - 5:30PM)?

The system will be available for users seven days a week and twenty-four hours a day. However, there are some districts that require time sensitive documents to be electronically filed during regular business hours. The Court may consider adopting a similar rule for the Eastern District of Arkansas. A significant benefit for filing during regular business hours is that the CM/ECF help desk in the Clerk's Office will be available to assist the user with any questions, complications or concerns.

11. What happens when the Court's system goes down? What happens when the filer's system goes down preventing them from filing on time?

The Court anticipates the adoption of a General Order that will specifically address these types of administrative issues.

12. Is there a potential problem with network traffic?

There is no information available that documents any CM/ECF problems due to network traffic.

13. What about things that have to be filed directly with the Judge (i.e., trial brief, proposed findings)?

A significant benefit of electronic filing is that interested parties, including the court, may receive automatic notification of a filing, as well as a copy of the actual document. As a result, it appears that electronic case files should eliminate the need for routinely providing the Court with a courtesy copy of documents filed with the Clerk's Office. This is another issue that will be addressed in the CM/ECF Administrative Manual of the Court.

14. Is Adobe software a free download?

The free version of Adobe that is on the web is a reader only. This will not work for converting a document to PDF format for filing on the CM/ECF system.

15. Is service of documents and other papers on counsel by electronic means permitted?

Yes. Documents and other papers may be served upon counsel in a case electronically by means of the CM/ECF system only if they are registered users of our system.

16. How are copies of documents and other papers generated that need to go to parties in a case?

The CM/ECF system will identify all parties in a case who have registered for electronic service and automatically send them a Notice of Electronic Filing (NEF). The NEF will contain a hyperlink to the actual document that was filed. The CM/ECF system allows filers to identify the users who are registered for electronic filing in the case. A paper copy of the document must be mailed to the parties not registered for electronic filing. A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate must state the manner in which service or notice was accomplished.

17. If electronic case filing is mandatory, why is there an option for signing up for service?

The Court anticipates full implementation of electronic case filing which is generally considered to be mandatory electronic filing. However, the Federal Rules of Civil Procedure do not permit the Clerk's Office to refuse a filing by a party because it has not been electronically submitted.

18. When you get the e-mail with the document in it, can you look multiple times without being charged?

No. The hyperlink to the actual document found in the Notice of Electronic Filing (NEF) can only be activated once. A fee (8 cents per page with a \$2.40 maximum per document) will be assessed for each additional activation. Documents should be downloaded as they are received to avoid an additional assessment. It is important to note that the system interprets a double click as a second request. Therefore, please click lightly on the document found in the NEF.

19. When you submit attachments, how are file sizes addressed?

There will be a limitation on the size (i.e., megabytes) that a PDF document can be submitted electronically. This matter will be addressed during training and in our CM/ECF Administrative Manual.

20. How are prisoner filings handled?

Prisoner filings, pro se filings and some social security filings must be filed traditionally. Images of prisoner and pro se filings will be available through CM/ECF for viewing but privacy concerns may require redaction or sealing of some social security documents.

21. Will you be able to get exhibits with ECF?

Exhibits that are necessary and relevant to the case may be electronically submitted with a document. Special arrangements may be necessary for exhibits that may contain sensitive information or are too large to be submitted electronically. This issue will be addressed in the CM/ECF Administrative Manual.

22. How are signatures handled with a legal assistant filing on the attorney's behalf?

The system anticipates that a legal assistant may use an attorney's login and password to electronically file a document. This is an acceptable practice but attorneys are encouraged to implement internal controls that protect their signatures from unauthorized use.

23. What type of Internet connection is required?

The Internet connection may be dial-up or high speed (DSL or cable).